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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/688,733	10/15/2003	Robert Grzesek	MAT 314	1775
23581	7590	10/19/2004	EXAMINER	
KOLISCH HARTWELL, P.C.			MILLER, BENA B	
520 S.W. YAMHILL STREET			ART UNIT	PAPER NUMBER
SUITE 200			3714	
PORTLAND, OR 97204				

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,733

Applicant(s)

GRZESEK ET AL.

Examiner

Bena Miller

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3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-15, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 6, 16, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01/21/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 7, 8, 9 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Salosky.

Regarding claims 1 and 2, Salosky teaches in the figures a toy comprising a first component (15—fig.2 left side), a second component (12), a ferrous material (fig.2) and a magnetic portion (20).

Regarding claim 3, Salosky further teaches a least a third component (16—fig.2, left side).

Regarding claim 5, Salosky further teaches an alignment assembly (18).

Regarding claim 7, Salosky further teaches a rotatable element (13).

Regarding claim 8, Salosky further teaches at least two components (15—fig.2, right side and 28 causes the rotatable element to be confined).

Regarding claim 9, Salosky further teaches at least one support (see marked copy fig.2).

Regarding claim 18, Salosky teaches in the figures a toy comprising a first component (15—fig.2 left side), a second component (12), a third rotatable component (13) and at least one support (see marked copy fig.2).

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Claims 11-14, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Cho.

Regarding claim 11, Cho teaches in figures 11 and 12, a plurality of components (fig.11), a first component (764; note 764 can be rotated), a second component (720) and a third component (740).

Regarding claim 12, Cho further teaches the first component is magnetically coupled to the second component (fig.12).

Regarding claim 13, Cho further teaches at least one support (748).

Regarding claim 14, Cho further teaches a portion of a vehicle (col. 3, par.2).

Regarding claim 15, Cho further teaches an alignment assembly (fig.12).

Regarding claim 17, Cho further teaches a ferrous material fig.12.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray in view of Salosky.

Gray teaches in the figures most of the elements of the claimed invention, except for a magnet portion affixed to one of first and second component. Salosky teaches in the figures a toy vehicle that is magnetically attached (fig.1-fig.4). It would have been

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obvious to one having ordinary skill in the art at the time was made to incorporate a magnet portion as taught by Salosky to one of the first and second components of Gray for the purpose of providing a more secure attachment for the components of the toy.

Allowable Subject Matter

Claims 6, 16, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643.

The examiner can normally be reached on Monday-Friday.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bbm

Bena Miller
Patent Examiner